



CITY COUNCIL AGENDA

MARCH 28, 2006

AMENDED AGENDA

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:30 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
[See Separate Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall
- **Invocation (District 3)**
* Reverend Michael-Ray Matthews of Grace Baptist Church of San José
- **Pledge of Allegiance**
- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

ITEM 9.1 IS TO BE CONSIDERED IN A JOINT CITY COUNCIL/REDEVELOPMENT AGENCY BOARD SESSION.

ADJOURNMENT: This meeting will be adjourned in memory of former Assemblyman Marco Firebaugh, who fought tirelessly for those of few means and in the memory of former State Senator Al Alquist, whose legacy includes helping establish the Santa Clara County transit system, California's earthquake safety program, and helping to save San José State's tower from destruction.

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation recognizing David Parrott for his efforts as a Good Samaritan and an exceptional City employee. (Parks, Recreation and Neighborhood Services)

1. CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to the Guadalupe River Park team for their exemplary dedication and invaluable contributions to the City organization; and design awards to the City of San José for the Guadalupe River Park from the California Parks and Recreation Society and from the California Redevelopment Association. (Executive Director/Mayor)
* (Rules Committee referral 3/15/06)
- 1.3 Presentation of a commendation to Tully Library staff for their exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)
(Rules Committee referral 3/15/06)
- 1.4 Presentation of a commendation to O.C. MacDonald Company, Inc. on the occasion of their 100th Birthday. (Yeager)
(Rules Committee referral 3/15/06)
- 1.5 Presentation of a commendation to Martha's Kitchen for serving more than one million meals to the poor and hungry in Santa Clara County for over 24 years. (Nguyen)
(Rules Committee referral 3/15/06)
- 1.6 Presentation of commendations to Robert Colarossi, Managing Director of Anschutz Entertainment Group Cycling and Medalist Sports for their contributions in bringing the Tour of California to San José; and acknowledgement of the City of San José, San José Sports Authority and Convention and Visitors Bureau employees whose efforts made this event a resounding success. (Office of Economic Development)
* (Rules Committee referral 3/22/06)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 27676 – Amending Section 11.36.220 of Chapter 11.36 of Title 11 of the San José Municipal Code by adding no person shall avoid the time limit on vehicles parked on City streets or alleys for more than a consecutive period of seventy-two hours by attempting to remove tire markings placed by an authorized City employee and/or by moving the vehicle less than one-tenth of a mile from the original parking space.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances. (Cont'd.)

Recommendation: Final adoption of ordinances.

- * (b) [ORD. NO. 27667](#) – Amends Chapter 12.12 of the San José Municipal Code by adding a new section 12.12.200 entitled lobbyist fundraising activity to provide a definition of the term and amending section 12.12.420 entitled additional required information and disclosures.

2.3 [Approval to waive the Revolving Door Ordinance.](#)

Recommendation: Approval to waive certain provisions of the Revolving Door Ordinance (Chapter 12.10 of the San José Municipal Code) to allow Deputy City Manager Terry Roberts to provide consulting services for the implementation of the Airport Master Plan. CEQA: Not a Project. (City Manager's Office)

2.4 [Approval of fiscal actions for Redevelopment Capital Projects.](#)

Recommendation:

- (a) Adoption of the following 2005-2006 Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
 - (1) Increase the appropriation to the Department of Public Works for the Zolezzi Park Improvement project (PSM #420, Amendment 1) in the amount of \$25,000.
 - (2) Establish an appropriation to the Department of Transportation for the ADA Ramp Replacement/New Installation project (PSM #435) in the amount of \$462,000.
 - (3) Increase the estimate for Earned Revenue by \$487,000.
- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the ADA Ramp Replacement/New Installation project as more specifically described in the memorandum from the Redevelopment Agency, dated February 6, 2006.

CEQA: Zolezzi Park: Exempt, File No. PP05-173. ADA Ramp Replacement/New Installation: File No. PP05-064. Council Districts: 5,7,8. SNI Areas: Gateway-East, KONA, West Evergreen. (City Manager's Office)

2.5 [Approval to award open purchase order for FY 2005-2006 # 13.](#)

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #13, and authorization for the Director of finance to execute the purchase orders. CEQA: See memo for CEQA designations. (Finance)

2. CONSENT CALENDAR

2.6 [Approval of an agreement for radio dispatch upgrades for Public Safety.](#)

Recommendation: Adoption of a resolution authorizing the Director of Finance to negotiate and execute a Radio Dispatch Upgrade Agreement with Motorola, Inc. (Motorola) located in San Diego, California for sole source purchase of hardware and software upgrade in the amount of \$697,267.78, including sales tax and implementation services. CEQA: Not a Project. (Finance)

2.7 [Approval to amend an agreement for the Police Department's Helicopter.](#)

Recommendation: Adoption of a resolution authorizing the Director of Finance to execute an amendment to the agreement with Aris Helicopters, Ltd., located in San Jose CA, for maintenance and repair services, increasing compensation by \$91,500, from \$183,000 to a not to exceed amount of \$274,500, and extending the term of the agreement from March 31, 2006 to September 30, 2006. CEQA: Not a Project. (Finance)

2.8 [Approval to reject the sole proposal for a Parking Guidance System](#)

Recommendation: Reject the sole proposal for the purchase and installation of a Parking Guidance System and authorize the Director of Finance to initiate a new RFP process. CEQA: Not a Project. (Finance)

2.9 [Approval of the Falls Creek Park Master Plan.](#)

Recommendation: Approval of the Falls Creek Park Master Plan. CEQA: Exempt, PP05-168. Council District: 8. (Parks, Recreation and Neighborhood Services)

2.10 [Approval to continue an agreement with Happy Hollow Corporation.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a continuation agreement with Happy Hollow Corporation for events, promotions, and fundraising activities for Happy Hollow Park and Zoo, continuing the term through September 1, 2006. CEQA: Not a Project. SNI Area: Tully/Senter. (Parks, Recreation and Neighborhood Services)

2.11 [Approval to purchase property located at 1820 McLaughlin Avenue.](#)

Recommendation: Approval of a purchase agreement for the purchase of a portion of a parcel located at 1820 McLaughlin Avenue, together with an immediate right of entry thereon, from owner Dennis D. Doherty, a single man, at a total cost to the City of \$25,555 for the purchase and estimated closing costs, and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Exempt, PP05-228. Council District: 7. SNI Area: Tully Senter. (Public Works)

2. CONSENT CALENDAR

2.12 [Approval of an agreement for consulting services for the Environmental Monitoring Program.](#)

Recommendation: Approval of an agreement with Central Coast Wilds, a division of Ecological Concerns Incorporated, to provide consultant services for the Environmental Monitoring Program for the Story Rd. Mitigation Site Nos. 1 & 2, from the date of execution to December 31, 2007, in a total amount not to exceed \$154,000. CEQA: Not a project. Council District: 7. SNI Area: Spartan/Keyes. (Public Works)

2.13 [Approval to accept a traffic signal facility easement.](#)

Recommendation: Adoption of a resolution authorizing the Director of Public Works to execute and record a certificate of acceptance of a grant of a traffic signal facility easement from the San José Redevelopment Agency on a parcel located at 189/193 East Santa Clara Street. CEQA: Resolution No. 68905, PP04-03-071. Council District: 3. (Public Works)

2.14 [Approval to set a Public Hearing for the vacation of a portion of Narvaez Avenue.](#)

Recommendation: Adoption of a resolution of intention to vacate Narvaez Road between Narvaez Avenue and Route 87; and setting a public hearing on April 25, 2006 at 1:30 p.m. CEQA: Exempt. Council District: 10. (Public Works)

2.15 [Approval of Contract Change Order No. 12 for an Improvement District.](#)

Recommendation:

- (a) Increase the contingency budget for the Improvement District 99-218SJ (Hellyer-Piercy) Contract #3 Project by \$39,806.20, from \$95,193.80 to a total not to exceed amount of \$135,000.
- (b) Approval of Contract Change Order No. 12 with Granite Construction for the Improvement District 99-218SJ (Hellyer-Piercy) Contract #3 Project, increasing the amount by \$135,000, from \$294,806.20 to a total Change Order amount of \$429,806.20.

CEQA: Resolution Nos. 69699 and 64667. Council District: 2. (Public Works)

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

* **Recommendation:** Acceptance of the Report of the Study Session:

- (a) 2005-2006 Proposed Operating Budget Study Sessions dated May 9-18, 2005.
[Deferred from 3/7/06 et al and 3/21/06 – Item 3.1(a)]

RECOMMEND DEFERRAL TO 4/4/06

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – March 15, 2006

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review March 28, 2006 Draft City Council Agenda
 - (2) Add New Items to March 21, 2006 City Council Agenda
 - (3) List of Reports Outstanding
- (c) Legislative Update
 - (1) State
 - (a) Redevelopment Agency Legislative Update: AB2922 (Jones); SB1206 (Kehoe) and AB2197 (DeVore)
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
- (h) Open Forum
- (i) Adjournment

* Rules/Partial Rules Committee Report – March 22, 2006

Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendation and Approvals
 - (3) Adoption of an opposition position on HR4437: Border Protection, Antiterrorism and Illegal Immigration Control Act of 2005
- SEE ITEM 3.6 FOR COUNCIL ACTION TO BE TAKEN**

3.3 Report of the Making Government Work Better Committee – March 16, 2006

Council Member Reed, Chair

[Memo from Councilmember Reed](#)

- (a) Northside Community Center Quarterly Update
- * **SEE ITEM 3.8 FOR COUNCIL ACTION TO BE TAKEN**
- (b) Follow-up Discussion from May 2005 on Implementing Changes to the Public Arts Program
 - (c) Oral Petitions
 - (d) Adjournment

3.4 Approval of an ordinance clarifying permitted expenditures of the Construction Tax and the Conveyance Tax.

Recommendation: Approval of an ordinance amending Title 4 of the San José Municipal Code to add a new Chapter 4.55 to consolidate and clarify the permitted expenditures of taxes collected pursuant to Chapters 4.54 and 4.58 of Title 4 of the San José Municipal Code and to amend Chapters 4.54 and 4.58 of Title 4 of the San José Municipal Code to add Sections 4.54.105 and 4.58.238 to make conforming changes. CEQA: Resolution No. 65459. (City Attorney's Office)

RECOMMEND DEFERRAL TO 4/4/06

2. CONSENT CALENDAR

3.5 [Approval of actions related to environmental clearance processes.](#)

[Attachment](#)

- * **Recommendation:** Adoption of the following items:
- (a) An urgency ordinance amending Title 21 of the San José Municipal Code regarding environmental clearance processes under the California Environmental Quality Act of 1970 (CEQA) to add a new section to Part 2 of Chapter 21.04 to allow for additional appeals of certain environmental determinations to the City Council and to make additional, related clarifying changes within that Title, and setting forth a statement of facts constituting such urgency, and;
 - (b) A resolution of the City Council to initiate on its own motion proceedings to amend Title 21 of the San José Municipal Code regarding environmental clearance processes under the California Quality Act of 1970 (CEQA) to allow for additional appeals of certain environmental determinations to the City Council, directing staff to develop such a proposed ordinance, and referring the proposed ordinance to the Planning Commission for its report or recommendation.
- CEQA: Not a Project. (City Attorney/Planning, Building and Code Enforcement)

3.6 **Adoption of a resolution in opposition to the proposed Comprehensive Immigration Reforms.**

- * **Recommendation:** [Adoption of a resolution opposing the proposed Comprehensive Immigration Reform](#) Chairman's Mark Up currently being heard in the Senate Judiciary Committee. (Chavez/LeZotte/Cortese/Nguyen)

3.7 [Resolution of Support for the Go Green Initiative.](#)

- * **Recommendation:** Adoption of a resolution in support for the Go Green Initiative as a means of encouraging communities to become more environmentally aware by providing schools with tools they need to partner with students, parents, teachers and school leaders to promote environmental stewardship to children. (LeZotte/Chirco)
(Rules Committee referral 3/22/06)

3. STRATEGIC SUPPORT SERVICES

3.8 Approval of action related to the Northside Community Center.

* **Recommendation:** Adoption of a resolution:

- (a) Authorizing the City Manager to negotiate and execute a reimbursement agreement with Filipino American Senior Opportunities Development Council, Inc. (FilAm) in an amount not to exceed \$110,000 of Healthy Neighborhood Venture Funds for eligible services provided at the Jacinto “Tony” Sequig Northside Community Center (Center) from July 1, 2005 through June 30, 2006, provided the City has received requested supporting information no later than March 27, 2006 and such information is acceptable to the City Manager.
- (b) If FilAm has not delivered all of the requested supporting information by March 27, 2006, or such information is unacceptable to the City Manager to execute an agreement, authorizing the City Manager to offer key Fil-Am SODC staff involved in providing direct services at the Center the opportunity to become Temporary Unclassified employees with the City.
- (c) Providing direction to staff regarding the operations and services by the City and FilAm at the Center for the remainder of FY 2005-2006, including steps to ensure the orderly transition of the Center’s operations in July 2006, to the operator selected through the pending Request for Proposal process.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

RECOMMEND DEFERRAL TO 4/4/06

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chirco, Chair

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

4.3 Public Hearing on the Calpak District Manager’s Office as a landmark of special interest.

Recommendation: Public Hearing on the Calpak District Manager’s Office as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature. CEQA: Exempt. Council District: 6. (Planning, Building and Code Enforcement)

RECOMMEND DEFERRAL TO 4/25/06

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Approval of actions related to the County Island Annexation Process.

- * **Recommendation:** Provide direction to staff to proceed with the county island annexation process, beginning with a Pilot Program of sixteen such islands, and specifically:
- (a) Direction to staff to prepare initiation of island annexations under the provision of Government Code Section 56375.3 for those parcels identified islands; and
 - (b) Request that the County provide the necessary mapping, legal descriptions, Surveyor's and Assessor's Reports for the islands recommended in the staff report; and,
 - (c) Direction to staff to initiate the necessary pre-zonings and complete appropriate environmental review.
- CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement)
(Deferred from 3/21/06 – Item 4.4)
RECOMMEND DEFERRAL TO 4/4/06

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair

5.2 [Approval to award a contract for the Los Gatos Creek Trail Reach 4 Lincoln/Auzerais Project.](#)

[Supplemental](#)

- * **Recommendation:** Report on bids and award of contract for the Los Gatos Creek Trail Reach 4 Lincoln/Auzerais Project to the low bidder, HSR, Incorporated, in the amount of \$1,328,558 and approval of a contingency in the amount of \$199,284. CEQA: Mitigated Negative Declaration PP04-01-014. Council District: 6. (Public Works/Parks, Recreation and Neighborhood Services)

5.3 [Public Hearing for establishing an Underground Utility District on Naglee Avenue.](#)

Recommendation: Public Hearing and upon its conclusion approve [an ordinance](#) establishing a Rule 20A Underground Utility District on Naglee Avenue between Bascom Avenue and Park Avenue and on Park Avenue between Naglee Avenue and Hanchett Avenue. CEQA: Exempt, PP06-002. Council District: 6. (Public Works)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair

6.2 Approval to award two contracts for the Airport North Concourse.

Recommendation:

- (a) [Approval of report on bids and take appropriate action based on the evaluation](#) of bids for the Norman Y. Mineta San José International Airport North Concourse Building Foundation and Utility Tunnel Concrete (Package 2A) Project. CEQA: Resolutions No. 67380 and 71451, PP 04-03-092. (Public Works/Airport)
- (b) [Approval of report on bids and take appropriate action based on the evaluation](#) of bids for the Norman Y. Mineta San José International Airport North Concourse Curtain Wall and Glazed Roofing Project (Package 4A).
CEQA: Resolutions No. 67380 and 71451, PP 04-03-092. (Public Works/Airport)

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RECOMMEND DEFERRAL TO 4/11/06

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Public Hearing for a Commercial Solid Waste and Recyclables Collection Franchise](#)

Recommendation: Public Hearing on the application of The Residential Bin Co., Inc. for a Commercial Solid Waste and Recyclables Collection Franchise, approval of an ordinance granting the franchise, and approval of a Commercial Solid Waste and Recyclables Collection Franchise Agreement with The Residential Bin Co., Inc. for a term from May 12, 2006 to June 30, 2006. CEQA: Negative Declaration, File No. PP92-11-308. (Environmental Services)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Item 8.1, approval of actions related to the California Redevelopment Association/ Education Revenue Augmentation Fund Loan Program on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 9.1 IN A JOINT SESSION

9.1 [Approval of actions to the agreement with San José Day Nursery.](#)

Recommendation: Approval by the City Council and Redevelopment Agency Board of the first amendment to the agreement with San José Day Nursery, increasing the City/Agency contribution by \$144,000, for a total City/Agency contribution not to exceed \$1,000,000, for the development and renovation of San José Day Nursery's existing facilities located at 33 North Eighth Street, to be operated as a Smart Start Early Care and Education Center, amending the covenants from a 15 year to a 20 year period, reallocating \$144,800 from Phase 2 to Phase 1 of the project and making other technical changes. CEQA: Exempt, File No. PP04-062. Council District: 3. (City Manager's Office/Redevelopment Agency)

ADJOURN REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING

- Closed Session Report
 - Notice of City Engineer's Pending Decision on Final Maps
- * In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9693	Northeast corner Bonita Avenue/ Sunny Court	3	KB Homes, South Bay	89 lots/80 units	SFD	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9795	Northwest corner of Old Oakland Rock and Rock Avenue	4	Taylor Woodrow	98 units	SFA

- Notice of City Engineer's Award of Construction Projects
- Open Forum—To be heard jointly with Redevelopment Agency Public Discussion.
- **Adjournment**

This meeting will be adjourned in memory of former Assemblyman Marco Firebaugh, who fought tirelessly for those of few means and in the memory of former State Senator Al Alquist, whose legacy includes helping establish the Santa Clara County transit system, California's earthquake safety program, and helping to save San José State's tower from destruction.